REMARKS

By this amendment, Claims 1, 7, and 13-16 have been amended. No claims have been added or cancelled. Hence, Claims 1-26 are pending in the application.

I. ISSUES RELATING TO PRIOR ART

Claims 1-26 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *James* et al (US Patent No. 6,904,600; hereinafter *James*), in view of W3C's "Simple Object Access Protocol (SOAP) 1.1" (hereinafter W3C), in view of *Abjanic* (US Patent No. 6,732,175; hereinafter *Abjanic*), and further in view of *Preisig* et al. (US Patent No. 6,882,996; hereinafter *Preisig*). The rejection is respectfully traversed.

II. RESPONSE TO REJECTIONS

A. CLAIM 1

Claim 1, as amended, recites:

> A method for **masking differences among a plurality of servers** providing similar services over a network, the method comprising the steps of:
> receiving, at an application switching component from a requesting process, a request for a service among the similar services, wherein the request includes data indicating a particular service extension is mandatory;
> **wherein the application switching component is a process that switches among the plurality of servers;**
> sending the request to a first server of the plurality of servers;
> receiving, at the application switching component in response to sending the request to the first server, error data that indicates the particular service extension is not available at the first server, **wherein in response to receiving the error data from the first server the application switching component does not send the error data to the requesting process**; and
> in response to receiving the error data, sending the request from the application switching component to a second server of the plurality of servers, wherein the second server is different from the first server. (emphasis added)

1. James *fails to teach "receiving...error data that indicates the particular service extension is not available"*

Claim 1 recites in part "receiving...**error data that indicates the particular service extension is not available**." The Office Action states that col. 4, lines 12-62 of *James* teach the quoted feature. However, the only mention of "errors" in *James* is:

> Errors can occur anywhere in the communications system, from the client-side application's mistaken use of the SOAP API, to lack of resources (such as memory) on the client-side application's host machine 20, to congestion on the communications link 51, to unavailability of the remote server 49. Because of this, in the case of an error the SOAP Request Object includes not just a failure indication but as much error-resolution information as can be reasonably gathered.

James, col. 4, lines 48-56. The Office Action does not cite or attempt to apply a reference showing "receiving...error data that indicates the particular service extension is not available." The Office Action merely refers to the W3C reference as allegedly describing that a SOAP message can have a mandatory or optional header entry (page 3, lines 7-9). The availability of such headers is completely different than receiving error data as a process step. Both *James* and W3C fail to describe "receiving...error data indicates the particular service extension is not available." Because *James* and W3C fail to disclose this feature, alone or in combination, and because the Office Action does not attempt to apply the other cited references to this feature, Claim 1 is patentable over the cited references.

2. Misreading of Claim 1

Claim 1 has been amended to state "receiving...error data that indicates the particular service extension is not available at the first server, wherein **in response to receiving the error data from the first server the application switching component does not send error data to the requesting process**" (emphasis added to the amendment).

The Office Action admits that the "combination of *Abjanic*, W3C, and *James* teaches substantially all claimed limitations, except error data is not sent to the requesting process" (page 4, lines 1-2). The Office Action relies solely on *Preisig*, col. 4, line 4-45, for the quoted feature of Claim 1. But in applying *Preisig*, the Office Action quotes **claim language that is not present in Claim 1**. Instead, the Office Action quotes **claim features from *original* Claims 1 and 3 that are *not* in current Claim 1**.

For example, the Office Action states that *Preisig* teaches a "second application" and a "plurality of applications." However, Claim 1 recites a "**second server**" and "a **plurality of servers**," neither of which are found in *Preisig*. The Office Action applies *no* reference for the quoted features. As another example, the Office Action states that Claim 1 includes "if it is determined that at least one of the plurality of applications has the particular service extension, then not sending, to the requesting process, error data indicating the particular service extension is not available." But this language is found **in original Claim 3, which has since been amended**.

Because the Office Action misread Claim 1 to include features found only in original Claim 3, the Office Action's contention that *Preisig* shows "not sending...error data" is understandable. Original Claim 3 recited that the particular service extension **is available** at one of the plurality of applications (the alleged "plurality of servers"). Thus, error data would not be sent. However, Claim 1 recites that "the particular service extension is **not available** at the first server"—a completely different concept.

3. Amendment further distinguishes Claim 1 from Preisig

Furthermore, based on the amendment, *Preisig* fails to show "in response to **receiving error data from the first server**" as amended Claim 1 recites. *Preisig* does not teach that

error data is received from a **server**. At most, the flow chart cited in *Preisig* is followed in response to a service request from a client (col. 4, lines 5-9).

4. Preisig *is taken out of content*

Preisig is also applied completely out of context. If reading a reference like *Preisig* indicates that error data is not generated, then the non-existent error data cannot be sent to a requesting process. However, the Office Action has failed to show in any of the references (alone or in combination) that an application switching component **does not send,** to a requesting process, **error data** that **indicates** that a particular service extension is not available. The citation of *Preisig* does not suggest the **complete claimed combination**.

5. Preisig *teaches away from Claim 1*

Preisig actually teaches that error data **is sent** to a service requester (i.e. the alleged "requesting process"). *Preisig* states, "Returning to decision diamond 40, if the action is not SOAP, the logic moves to block 56 where an **error response is returned to the service requester**. The logic then ends at state 54" (col. 4, lines 42-45). "If, at decision diamond 68, the action is not WSDL, the request is invalid and an **error response is returned to the requester**. Then, the logic ends at state 54" (col. 5 lines 17-19). But *Preisig* completely fails to describe or suggest that error data **is not sent** to the requesting process. *Preisig* teaches that error responses **are sent** to the requesting process, whereas the claimed subject matter masks differences by **not sending error data** to the requesting process. Therefore, the Claim 1 is patentable over all the cited references, including *Preisig*.

6. Preisig *fails to teach "in response to receiving error data, sending the request from the application switching component to a second server"*

Claim 1 further recites, "in response to receiving the error data, sending the request from the application switching component to a second server." The Office Action appears to allege

that *Preisig* col. 4, line 4 to col. 5, line 19 describes the quoted feature. However, the Office Action quotes **original Claim 1, and not present Claim 1**.

Specifically, the Office Action states, "and in response to the decision (36, 38, 40, 60, 64, 68), sending the request from the application switching component to a second application" (page 4, lines 4-6). Yet *Preisig* fails to teach the above-quoted feature of present Claim 1 for several reasons:

(1) *Preisig* does not teach that *any* step is performed in response to receiving error data, much less sending a request to a second server as in Claim 1. The decision tree in Figure 2 and the accompanying text cited in the Office Action indicate that no "decisions" are made once an error response is generated (blocks 56, 72 and 54 of Figure 2; col. 4, line 43-45; col. 5, lines 18-19).

(2) Even if Claim 1 is read to state that "sending the request" is in response to a decision, as the Office Action alleges, *Preisig* fails to teach that the request is sent to a second server, as Claim 1 recites, since *Preisig* does not refer to anything more than a single server. Neither the decision logic in *Preisig* nor anything else in *Preisig* can correspond to a second server. All of *Preisig* only refers to a single server.

(3) Nothing in *Preisig* corresponds to an application switching component. (Applicants and the Examiner resolved this issue in a telephone interview of February 9, 2006.)

(4) Because *Preisig* fails to describe the claimed "application switching component" and "second server," *Preisig* necessarily fails to provide "sending the request from the application switching component to a second server," as in Claim 1.

7. The cited references are combined piecemeal

It is "impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered

obvious," *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992); quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *Id.*

In one case, the "examiner concluded that applicant's invention would have been obvious in light of twelve references" *In re Robert H. Blamer*, 6 F.3d 788 (Fed. Cir. 1993). The court determined that the "examiner's reliance on so many references was 'overkill'.... What...the examiner [has] done is to cite a number of references variously containing some of the limitations in applicant's claims. However, these references and the limitations for which they were cited were combined piecemeal...without regard to the purpose of applicant's invention." *Id.*

Similarly, the Office Action combines the cited references piecemeal without regard to the purpose of applicant's invention. A purpose of applicant's invention is to mask differences among a plurality of servers providing similar services over a network. The Office Action simply cited references that mention the name of some of the key features of Claim 1: 1) a switch (that routes a received message to the appropriate node or server; *Abjanic*); 2) a requesting process (*James*); 3) a SOAP global attribute (that indicates whether a header entry is mandatory or optional; W3C); 4) a plurality of servers (*Abjanic*), a first server (*James*), error data (*James*); and 5) a second server (*Preisig*). But the references do not show or suggest the complete claimed subject matter.

The Office Action states that *James*, W3C, *Abjanic*, and *Preisig* "disclose analogous arts, relating to methods and systems conforming to XML-based protocol such as SOAP." However, *Abjanic* mentions nothing about SOAP. Because each reference makes a reference to XML, the Office Action alleges that

> it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply *Preisig*'s method of switching between a plurality of applications in the combinations of *James*, W3C and *Abjanic*, **motivated by a need of providing a more effective and flexible Web-based traffic for customers whose computers resided behind corporate or ISP firewalls**. (emphasis added)

Only *Abjanic* refers to web-based traffic and only *Preisig* refers to firewalls and does so only once in the specification. Because *James*, W3C, and *Preisig* have nothing to do with web-based traffic and *James*, W3C, and *Abjanic* have nothing to do with firewalls, the references wholly lack the requisite motivation to combine all four references to provide the claimed invention. In fact, combining all four references still fails to teach or suggest the claim limitations mentioned above, with respect to 1) "receiving...error data that indicates that the particular service extension is not available at the first server"; 2) "in response to receiving the error data from the first server the application switching component does not send error data"; 3) "the application switching component does not send error data to the requesting process"; and 4) "in response to receiving the error data, sending the request from the application switching component to a second server."

For at least the above reasons, Claim 1 is patentable, under 35 USC § 103(a), over *James*, W3C, *Abjanic*, and *Priesig*, taken individually or in combination.

B. CLAIMS 2-6

Claims 2-6 depend from Claim 1 and therefore include all of the features of Claim 1 described above. Thus, Claims 2-6 are patentable over *James*, W3C, *Abjanic*, and *Priesig*, taken individually or in combination, for at least the reasons given above with reference to Claim 1.

C. CLAIM 7-12

Claims 7-12 recite computer-readable media that carry instructions for causing one or more processors to perform the methods of Claims 1-6, including the same features described

above for Claim 1. Claims 7-12 are patentable over *James*, W3C, *Abjanic*, and *Priesig* for at least the reasons given above in connection with Claims 1-6.

D. CLAIM 13-26

Each of Claims 13-26 is an apparatus, system, or method claim that includes all the features of Claim 1 described above. Therefore, Claims 13-26 are patentable over *James*, W3C, *Abjanic*, and *Priesig* for at least the reasons given above with reference to Claim 1.

III. CONCLUSION

For the reasons set forth above, all of the pending claims are now in condition for allowance. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages in fees or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,
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on June 6, 2006 by Trudy Bagdon
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